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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,693	02/08/2002	Andreas Dieterle	DT-6067	2085

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NEW YORK, NY 10019-6018

EXAMINER
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LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/24/2004

SW

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,693

Applicant(s)

DIETERLE ET AL.

Examiner

Michelle Lopez

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on December 24, 2004.

#### ***Claim Objections***

2. Claims 6-7 are objected to because of the following informalities: claims 6 are in an improper dependency format, as claim 6 depends upon claim 5 that had been withdrawn from further consideration in paper number 10. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerold (US 5,996,708) in view of Driggers (US 4,825,548). Gerold'708 discloses the invention substantially as claimed including a housing at the vicinity of "4" (see Fig. 1), a guide part "2", a drive shaft "9", an auxiliary handle "4" projecting radially outwardly from the housing, a locking ring arranged to set the handle on the guide part (see Fig. 1). Gerold'708 does not disclose a spade-shaped auxiliary handle with two arms extending radially outwardly from the locking ring and terminating at a cross arm. However, Driggers'548 teaches a spade-shaped auxiliary handle with two arms "84" extending radially outwardly from the locking ring and terminating at a cross arm "36a" (see Fig. 4) for the purpose of providing a handle with a convenient grip area that



Art Unit: 3721

allows the user to easily guide the motion of the tool. In view of Driggers' 548, it would have been obvious to one having ordinary skill in the art to have modified Gerold's invention as modified by Driggers' 548 by having a spade-shaped auxiliary handle in order to provide a handle with a convenient grip area that allows the user to easily hold the motion of the tool, thereby guiding the electrical tool with precision.

Also, Gerold' 708 does not disclose a locking ring that can be pivotally displaced around a rotational axis related to the drive shaft having securing means. However, Driggers' 548 teaches a locking ring "42" with an actuator element via "54a" that can be pivotally displaced around a rotational axis related to the drive shaft (see Figs. 4 and 10) for the purpose of pivotally displacing or adjusting the locking ring. In view of Driggers' 548, it would have been obvious to one having ordinary skill in the art to have modified Gerold's invention as modified by Driggers' 548 by having a locking ring with an actuator element that can be pivotally displaced around a rotational axis related to the drive shaft in order to pivotally displace or adjust the locking ring, thereby providing a plurality of different positions for the auxiliary handle.

Also, Gerold' 708 as modified by Driggers' 548 does not specifically state that the actuator element is located within the plane of the auxiliary handle space between the arms and radially inwardly of the cross arm. However, even that Driggers' 548 show an actuator element "54a" space apart from the auxiliary handle arms, it would have been obvious to one having ordinary skills in the art to have provided Gerold's invention as modified by Driggers' 548 by locating the actuator element within the plane of the auxiliary handle space between the arms and radially inwardly of the cross arm as a matter of design choice, as both configurations can



Art Unit: 3721

perform the same function of pivotally secure or adjust the locking ring of the auxiliary handle providing a plurality of different positions for the handle.

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerold'708 as applied to claim 1 above, and further in view of Lepold (US 6,241,594). Gerold'708 as modified by Driggers'548 does not disclose a first plate fixed to the auxiliary handle having counter tothing and a second plate having tothing and fixed against a spring. However, Lepold'594 teaches a first plate "80" fixed to the auxiliary handle having counter tothing "96" and a second plate "60" having tothing and fixed against a spring (see Fig. 7) for the purpose of engaging in a fitting manner the first plate with the second plate via the tothings. In view of Lepold'594, it would have been obvious to one having ordinary skill in the art to have provided Gerold's inventions as modified by Driggers'548 and further having a first plate "80" fixed to the auxiliary handle having counter tothing "96" and a second plate "60" having tothing (see Fig. 7) in order to engage in a fitting manner the first plate with the second plate via the tothings, thereby providing a securing feature allowing to lock and unlock the auxiliary handle to the locking ring.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-2, 4, and 6-7 have been considered but are moot in view of the new ground(s) of rejection.

6. For the reasons above, the grounds of rejection are deemed proper.



Art Unit: 3721

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arvidsson' 540 is cited to show related inventions.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-8205. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Application/Control Number: 10/071,693  
Art Unit: 3721

Page 6

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ML

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700